



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
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BETTY T. YEE
First District, San Francisco

SEN. GEORGE RUNNER (RET.)
Second District, Lancaster

MICHELLE STEEL
Third District, Rolling Hills Estates

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

KRISTINE CAZADD
Interim Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
January 26-27, 2011

PRELIMINARY RECORD OF BOARD ACTIONS

Wednesday, January 26, 2011

The following is a preliminary record of Board actions taken at the January 26-27, 2011 Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

The Board's decision reflects only the issues resolved by the Board at the meeting. Issues resolved prior to the meeting are not reflected in this document.

If you would like specific information regarding items on this Preliminary Record of Board Action, please telephone Amber Taylor-Forman at (916) 324-5589 or e-mail: Amber.M.Forman@boe.ca.gov Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Meeting

Organization of the Board

- The Board will vote to elect a Chair and Vice Chair.

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Appointed Mr. Horton, Chairman and Ms. Steel, Vice Chair	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- A. Homeowner and Renter Property Tax Assistance Hearings
There are no items for this matter.

B. Corporate Franchise and Personal Income Tax HearingsB1. ~~Karl H. Power and Natalie L. Power, 528570~~B2. ~~Estate of Eva M. Lindskog (Dec'd), 466455~~B3. ~~James Tracy and Therese Tracy, 505057~~

B4. Kevin E. Jones, 534416

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

B5. Clovus M. Sykes, 529645

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
The Board imposed a \$2500 frivolous appeal penalty.	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

C. Sales and Use Tax Appeals Hearings

These items are scheduled for Wednesday afternoon, January 26, 2011, and Thursday, January 27, 2011.

D. Special Taxes Appeals Hearing

This item is scheduled for Thursday, January 27, 2011.

There are no items for the following matters:

- E. Property Tax Appeals Hearings
- F. Public Hearings

G. Tax Program Nonappearance Matters – Consent**G1. Legal Appeals Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
No final determination on sub-item 5.	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Hearing Notice Sent – No Response
 1. Palette of Fine Arts, LLC, 493644, 494018 (CH)
- Hearing Notice Sent – Appearance Waived
 2. B. R. Cohn Winery, Inc., 468209 (JH)
 3. Shannah Danielle Holt, 505131 (EA)
- Petitions for Release of Seized Property
 4. Abdul Qaiyom Karimi, 537946 (ET)
 5. ~~Kashmir Singh Khinda, 549135 (ET)~~
 6. Feras Haydaer and Amal M. Haydaer, 536565 (ET)
 7. Saad Dawood Pattah, 549123 (ET)
 8. Don Yong Choi, 552562 (ET)
 9. Feras Mawas, 552298 (ET)

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

- Decisions
 1. Bruce L. Beck and Rosemary Beck, 522829
 2. Steven Citron-Pousty, 515093
 3. Jeanette L. Dixon, 476764
 4. Katherine Fowler, 484362
 5. Marcus Graves, 489015
 6. Sharon Jeffery, 507725
 7. Michael S. Jones, 472934
 8. Roger W. Knipp and Soledad E. Knipp, 473256
 9. Randall C. Lam, 521858
 10. John R. Mallory, 511485
 11. Natalya Morozova, 520326
 12. Toni R. Nettles, 461602
 13. Hee K. Park and lee J. Park, 516289
 14. Ed Sawyer and Randi Sawyer, 480044

15. Lisa Schulte, 440384
16. Alex Scott, 522004
17. Laura J. Seed, 489300
18. Steven S. Stewart and Susan A. Stewart, 508861
19. TLC Investment Club, 495495
20. Wenceslao Torres, Jr., 488872
21. Paul Valencia, 495480
22. Maurice P. Woods, 492728
23. Joseph G. Zagarino and Debbie Zagarino (AKA: Alex Dipilarez), 508824
24. Jose C. Zambrano and Roxanne L. Zambrano, 505080
- Petition for Rehearing
25. Eric Paul, 461392

G3. Homeowner and Renter Property Tax Assistance Matters
There are no items for this matter.

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes – except not participating in sub-items 2, 3, 5 and 15.

- Redeterminations
 1. Dayton Superior Corporation, 512832 (OH)
 2. Los Angeles SMSA, LP, 485969 (OH)
 3. Sacramento Valley LTD Partnership, 479526 (OH)
 4. Fiserv Cir, Inc., 522697 (OH)
 5. Contel Cellular California, Inc., 479517 (OH)
 6. Clariant Corporation, 523631 (OH)
 7. GTE Mobilnet of California, LP, 479524 (OH)
 8. T. A. Kyser Co., Inc., 507423 (OH)
 9. Wilson Industries, LP, 515487 (OH)
 10. Stringer Business Systems, Inc., 491314 (OH)
- Relief of Penalty/Interest
 11. Siemens Industry, Inc., 551396 (OH)
 12. Agilent Technologies, Inc., 551832 (GH)
- Denials of Claims for Refund
 13. Tulare Firestone, Inc., 508978 (KH)
 14. Owens & Minor Distribution, Inc., 390526 (OH)
 15. General Electric Company, 508976 (OH)
 16. Automotive Funding Group, Inc., 443780 (EA)
 17. Associates Housing Finance, LLC, 301089 (OH)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes – except not participating in sub-items 20 and 23.

➤ Credits and Cancellations

1. Color DNA, 373167 (AC)
2. H. Young Enterprises, Inc., 551838 (BH)
3. The Thomas Kinkade Company, 552540 (GH)
4. School Bus Sales of California, LLC, 553264 (OH)

➤ Refunds

5. Pomona Valley Community Hospital, LTD, 459032 (AP)
6. Regents of the University of California, 444025 (AS)
7. Regents of the University of California, 494549 (BH)
8. Fireside Bank, 533825 (CH)
9. Tulare Firestone, Inc., 508978 (KH)
10. American Material Management Alliance, Inc., 510556 (EH)
11. Novellus Systems, Inc., 451530 (GH)
12. Safe Credit Union, 533961 (KH)
13. Gen-Probe Sales & Service, Inc., 528278 (FH)
14. Prosys Information Systems, 518124 (OH)
15. Deutsch LA, Inc., 459078 (AS)
16. Wells Fargo Dealer Services, Inc., 531603 (EA)
17. Nickelodeon Theatres, Inc., 470336 (GH)
18. Daimlerchrysler Services North America, LLC, 447256 (OH)
19. Ari Fleet LT, 533834 (OH)
20. Verizon Wireless (VAW), LLC, 553324 (OH)
21. Owens & Minor Distribution, Inc., 390526 (OH)
22. Owens & Minor Distribution, Inc., 539494 (OH)
23. General Electric Company, 508976 (OH)
24. General Motors Acceptance Corporation, 399915 (OH)
25. The Sherwin-Williams Company, 487893 (OH)
26. All Good Pallets, Inc., 487612 (CH)
27. Casework Installations, Inc., 550186 (EH)
28. Americredit Financial Service, Inc., 531606 (OH)
29. Lobel Financial Corporation, 533199 (EA)
30. Doppelmayer CTEC, Inc., 479600 (OH)
31. Rockwell Automation, Inc., 496563 (OH)
32. American River Healthpro Credit Union, 480715 (KH)
33. California Coast Credit Union, 534189 (FH)
34. Transouth Financial Corporation, 533827 (OH)

35. Schools Financial Credit Union, 533817 (KH)
36. A-L Financial Corporation, 531607 (EA)
37. Automotive Funding Group, Inc., 443780 (EA)
38. Associates Housing Finance, LLC, 301089 (OH)
39. Financial Partners Credit Union, 518048 (AA)
40. Satellite Tracking of People, LLC, 522667 (OH)
41. Yuasa Yi, Inc., 531035 (OH)
42. Wartsila North America, Inc., 533201 (OH)

There are no items for the following matters:

G6. Special Taxes Matters

G7. Special Taxes Matters – Credits, Cancellations, and Refunds

G8. Property Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Not Participating

➤ Petitions for Reassessment of Private Railroad Car Tax

1. Basell USA, Inc. (5875), 550743 'CF'
2. The CIT Group/Capital Finance, Inc. (6260), 550554 'CF'

There are no items for the following matters:

G9. Cigarette License Fee Matters

G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

H1. Legal Appeals Matters

➤ Cases Heard But Not Decided

1. Kassem A. Mohamed and Munir Gazem Obaid, 535640 (ET)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

2. Bargain Cigarettes 1, 536568 (ET)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

H2. Franchise and Income Tax Matters

➤ Decisions

1.a ~~Gerber Marital Trust (Non-Exempt), 513082~~1.b ~~Gerber Marital Trust (Exempt), 513083~~1.c ~~Gerber Survivor's Trust (Exempt), 513084~~

2. Wayne G. Masten Revocable Inter-Vivos Trust, 472901

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

3. Barbara Talalemotu, 475326

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

➤ Petition for Rehearing

4. Todd Lutwak, 482917

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

There are no items for the following matters:

H3. Homeowner and Renter Property Tax Assistance Matters

H4. Sales and Use Taxes Matters

H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

➤ Credits and Cancellations

1. Stars Petroleum, Inc., 547878 (FH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

There are no items for the following matters:

H6. Special Taxes Matters

H7. Special Taxes Matters – Credits, Cancellations, and Refunds

H8. Property Tax Matters

H9. Cigarette License Fee Matters

H10. Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters

I1. Property Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Not participating

➤ Audits

1. Telescape Communications, Inc. (7907) 'CF'

2. Paxio, Inc. (8042) 'CF'

➤ Unitary Escaped Assessment

3. U.S. South Communications, Inc. (7660) 'CF'

I2. Offers in Compromise Recommendations

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

1. 2C Optics, Inc.
2. Jonathan S. Jose and City Spas
3. Manouchehr Sagart and Saga Enterprises
4. John Serino and Paramount Auto Parts
5. Kent C. Geyer II
6. Domenico Di Donato, Maria Bove and Di Donato International

- I3. Local Tax Reallocation Matters
There are no items for this matter.

Chief Counsel Matters

- J. Rulemaking
This item is scheduled for Thursday, January 27, 2011.

There are no items for the following matters:

- K. Business Taxes
L. Property Taxes
M. Other Chief Counsel Matters

Administrative Session

The following items are scheduled for Thursday, January 27, 2011.

- N. Consent Agenda
O. Adoption of Board Committee Reports and Approval of Committee Actions
P. Other Administrative Matters

Q. Closed Session

This item is scheduled for Thursday, January 27, 2011 and Friday January 28, 2011.

C. Sales and Use Tax Appeals Hearings

- C1. Victor S. Baglio Jr., 473489 (UT)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	No
	Sen. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

C2. David Harold Johnson, 451147 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

C3.a Smoke Rings, Inc., 391126 (AR)

C3.b Rami Michell Darghalli, 402639 (AR)

C3.c Rami Michell Darghalli and Faiz Mohamed Munassar, 404172 (AR)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

C4. ~~Juan Manuel Gallardo, 466120 (BH)~~



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450 N Street, Room 121, Sacramento
January 26-27, 2011

PRELIMINARY RECORD OF BOARD ACTIONS

Thursday, January 27, 2011

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Board Committee Meetings Please see Page 13, O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

C. Sales and Use Tax Appeals Hearings

C5. William Brett Corbin, 434956 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's administrative protest denied.	Mr. Horton	Yes
	Ms. Steel	No
	Sen. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

~~C6. Paul Glasson, 482541 (CH)~~

D. Special Taxes Appeals Hearing
Petition for Release of Seized Property

D1. Jeff & Amy Incorporated, 547450 (ET)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

Chief Counsel Matters

J. Rulemaking

J1. Petition to Amend Property Tax Rule 462.160, *Change in Ownership – Trusts*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Denied as recommended by staff.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

Administrative Session

N. Consent Agenda

N1. Retirement Resolutions

- Maria Elisa Chang
- Pardip N. Dayaram
- Diane R. Fisher
- Fe Marian Gonzales
- Ronald L. Helm
- Patricia A. Johnson
- Pamela Licon
- Alfredo D. Morales

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

N2. Approval of Board Meeting Minutes

- September 14-15, 2010
- October 19-21, 2010

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Not participating
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

O. Adoption of Board Committee Report and Approval of Committee Actions

O1. Legislative Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Postponed to February 2011 Board Meeting.	Mr. Horton	
For details see:	Ms. Steel	
http://www.boe.ca.gov/legdiv/legmeetings11.htm	Sen. Runner	
	Ms. Yee	
	Mr. Chiang/Ms. Mandel	

P. Other Administrative Matters

P1. Executive Director's Report

1. 2010 Holiday Food Drive Report
2. 2010 Employee Recognition Award Program Presentation

P2. Chief Counsel's Report

1. Investigations Division Update

P3. Sales and Use Tax Deputy Director's Report

1. CROS Project Update

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board approved staff's request for authorization to pursue obtaining a delegation of acquisition authority to BOE for the CROS project from either the Department of General Services or the Legislature.	Mr. Horton	Yes
	Ms. Steel	Yes
	Sen. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/Ms. Mandel	Yes

2. Update on BOE's Efforts for Enhancing Compliance in the Motor Vehicle Industry and on the Consumer Motor Vehicle Recovery Fund (CMVRF) Database
- P4. Property and Special Taxes Deputy Director's Report
There are no items for this matter.
- P5. Administration Deputy Director's Report
1. Facilities Update
 - a. Headquarters Facilities
 - b. Headquarters Annex
 - c. San Diego/San Marcos Site Search
 2. 2010/11 and 2011/12 Budget Update and Union Agreements
 - a. Information update on the budget: summary of relevant provisions of the Governor's 2010/11 Budget, and 2011/12 Union Agreements.
 - b. Information on the impact of the Personal Leave Program 2010 on the Board's revenue collection efforts.
- P6. Technology Deputy Director's Report
There are no items for this matter.
- P7. External Affairs Deputy Director's Report
1. 2011 Annual Outreach Plan and Budget
- Q. Closed Session**